



Staff Workshop on Proposed Regulations to Approve Certifiers and Technical Assistance Providers for the California Climate Action Registry

May 10, 2004



Senate Bill 527 and Overview of the Qualification Process

Senate Bill 527



Section 42870

Commission to:

- Develop a process to qualify technical assistance providers (TAs) and certifiers
- During certification, occasionally and randomly accompany certifiers to registry participant's sites

Senate Bill 527 (cont.)



Qualification process to:

- Develop minimum capabilities
- Publicize an application process
- Evaluate applicants against minimum capabilities
- Recommend qualified firms to Registry
- Periodically update list of service providers by:
 - Review current service providers
 - Review new applicants
 - Recommend to Registry to add or delete firms

Overview of Qualification Process



- Commission issues Request for Applications (RFA)
- Firms submit applications
- Evaluation Committee approves or denies
- Registry provides training class
- Approved firms are listed on website
- Firms must renew approval after three years



Application Process and Post-Qualification Changes: Article 4 and Article 6

Article 4



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- Applications submitted in response to RFA
- Deadline no less than 30 days after RFA is issued

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- Evaluation Committee members from Commission, Registry, other state agencies
- Applicant must pass all pass/fail criteria and achieve cumulative score of 60 out of 90 possible points
- Committee may interview applicants

Article 4 (cont.)



2832

Applications may be rejected:

- incomplete or received after the deadline
- contains false or misleading statements
- does not use appropriate forms or is unsigned
- contains (too much) confidential information
- applicant has a conflict of interest (COI) with
Commission or Registry

Article 4 (cont.)



2834

- Commission will notify applicants of results 30 days after submission date or 10 after receiving COI information whichever is later
- Failing applicant may appeal to Evaluation Committee and Commission's Transportation Committee
- All applications become property of the State and public record except confidential material
- May request confidentiality pursuant to Title 20, CCR section 2501 et seq.

Article 6



2850

- Certifier may add or delete staff at any time
- Certifier cannot fall below minimum staffing levels

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- Approval expires after three years; Registry service provider must reapply to maintain approval

Article 6 (cont.)



2852

Commission may rescind approval if:

- no longer qualified due to staffing or other criteria
- has not complied with Registry certification policies
- has not complied with Commission COI
- guilty of gross negligence, neglect of duty, misrepresentation or fraud, felony or misdemeanor involving certification or moral turpitude

Article 6 (cont.)



2853

- Commission shall inform certifier and Registry participant of intent to make site visits
- Prior to site visit, participant shall provide any information provided to certifier
- During site visit, participant shall provide documentation sufficient to ascertain 1) whether the participant has a program consistent with Registry protocols and 2) the reasonableness of the data reported to the Registry
- If Commission determines participant doesn't meet above, then Commission shall recommend Registry not certify the participant's data



Qualifying as a Technical Assistance Provider: Article 2

Article 2



2810

Applications shall contain:

- List of qualified staff
- List of judicial proceedings filed against the firm within the previous five years
- Two sample work products

Applications shall not contain any confidential information

Article 2 (cont.)



2811

Applicant shall have a least two years of greenhouse gas (GHG) or other air emissions-related experience in:

- utilizing engineering principles
- estimating GHG emissions
- developing and evaluating air emissions inventories
- auditing and accounting principles
- auditing environmental responsibility
- developing GHG-related software



Qualifying as a Certifier:

Article 3

Article 3



2820

Any firm that certifies a Registry participant's GHG inventory must be state-approved

Applications shall contain:

- Financial statements from the previous year; if in the name of related entity, must document relationship
- Copy of insurance policy for minimum \$1 million of professional liability insurance
- List of designated staff, resumes, and staff qualifications
- List of judicial proceedings within last five years

Article 3 (cont.)



2820 (cont.)

Applications shall contain:

- Minimum of three work products produced within last five years (may be confidential)
- Work products must demonstrate applicants ability to organize and manage a team
- Work products must be from multiple industry sectors for general certifier and the relevant industry sector for industry-specific certifier
- At least one reference for each work product from project manager or equivalent

Article 3 (cont.)



2820 (cont.)

Applications shall contain:

- A description of anticipated approach to certification including how the applicant would scope and plan, coordinate with the Commission and Registry, and conduct certification services
- A description of how staff knowledge is updated
- A demonstration that the applicant has policies and mechanisms in place to prevent COI

Article 3 (cont.)



2820 (cont.)

Prevention of COI include:

- Identification of the type of service offered, the customers served, and the locations where services are provided
- An organization chart that includes the applicant and related entities, services offered by each, specific identification of entities that provide incompatible services, management structure, and how profits are distributed

Article 3 (cont.)



2820 (cont.)

Prevention of COI include:

Measures that protect applicant's impartiality, including:

- committees or structures to protect impartiality
- steps taken to minimize risk to impartiality
- policies or arrangements that demonstrate independence
- procedures or records that demonstrate staff not involved in activities that might influence them
- any additional arrangements or measures that address or resolve COI

Article 3 (cont.)



2820 (cont.)

Applications shall contain:

- A signed declaration attesting to the applicant's ability to perform a case-by-case evaluation of COI and the applicant's intent to comply with the Commission's COI process and requirements

The Commission may request additional information from an applicant or seeking additional information for other persons regarding the applicant's fitness for qualification during the review period

Article 3 (cont.)



2821

Minimum requirements for general certifiers include:

- Been in existence for at least four years
- Minimum combined revenue of \$4 million for the prior year
- Minimum of 15 designated staff, seven employed by applicant (not partner), no more than five staff may be individual contractors to the applicant

Article 3 (cont.)



2821 (cont.)

Minimum requirements for general certifiers include:

- Each designated staff shall have (GHG) or other air emissions-related experience in at least one of the following :
- utilizing engineering principles
- estimating GHG emissions
- developing and evaluating air emissions inventories
- auditing and accounting principles
- knowledge of information management systems

Article 3 (cont.)



2821 (cont.)

Minimum requirements for general certifiers include:

- Each applicant shall have (GHG) or other air emissions-related knowledge in all of the following:
- utilizing engineering principles
- estimating GHG emissions
- developing and evaluating air emissions inventories
- auditing and accounting principles
- knowledge of information management systems
- purpose of the Registry and Registry protocols

Article 3 (cont.)



2821 (cont.)

Minimum requirements for general certifiers include:

- At least two years experience in certification or verification of GHG or other air emissions activities.
- Staff experience shall only be considered as applicant experience if the staff person was employed by the applicant when performing the relevant work

Article 3 (cont.)



2822

Minimum requirements for industry-specific certifiers shall include all of the requirements for general certifier except:

- Applicants will have minimum combined revenue of at least \$1 million (not \$4 million)
- Minimum of seven designated staff, five employed by applicant (not partner), no more than two staff may be individual contractors to the applicant
- Applicants shall employ staff with professional licenses, knowledge, and experience in the industry it seeks to certify

Article 3 (cont.)



2823

Partners are additional firms that may be used to meet the minimum requirements for general or industry-specific certifiers except for the requirements of the years in existence and staff to be employed solely by the applicant.

The following shall automatically be deemed partners:

- Firms employing designated staff
- Related entities that are used to demonstrate experience
- Related entities that are relied upon to demonstrate financial capability

Article 3 (cont.)



2823 (cont.)

Partners shall separately submit the information required of the applicant except proof of insurance, three work samples, a description of anticipated approach, and the cover page

Partners shall submit at least one sample of a work product; the work product will be considered when evaluation the sum of experience provided by the applicant team



Conflict of Interest:

Article 5

Article 5



2840

COI provisions apply only to certifiers

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Prior to commencement of certification, certifier to submit a self-evaluation of the potential for COI including:

- identification of potential of COI as high, low, or medium
- an organization chart of the Registry participant and related entities
- identification of whether the certifier has previously provided certification services to the Registry participant

Article 5 (cont.)



2841 (cont.)

A self-evaluation of the potential for COI shall include:

- identification of whether the certifier, or related entity, has engaged in any noncertification work for the Registry participant or related entity during the previous three years; if so then explain:
 - the nature of the work performed
 - the nature of relationships with Registry participant
 - how much work was performed in the last three years in dollars or percent of certifiers revenue

Article 5 (cont.)



2841 (cont.)

A self-evaluation of the potential for COI shall include:

If prior noncertification work, then explain:

- Any contracts with Registry participant
- What related entities will be involved
- How much GHG-related work has been performed
- Can the certifier's credibility be questioned
- Monetary value of proposed certification services
- Location of any work performed
- Whether the work is sensitive or highly visible

Article 5 (cont.)



2841 (cont.)

A self-evaluation of the potential for COI shall include:

- Identification of shared board members or senior management
- A list of names of the staff to perform certification and any instances of potential COI they may cause
- Identification of any other circumstances that could result in COI

Article 5 (cont.)



2841 (cont.)

Potential for COI shall be deemed high where:

- Certifier or participant share any current or previous management within last three years
- Certifier or any related entity has provided to the Registry participant within the last three years any of the following:
 - designing, developing, or maintaining a GHG inventory or GHG information system
 - developing GHG emission factors or other GHG-related engineering analysis

Article 5 (cont.)



2841 (cont.)

Potential for COI shall be deemed high where:

- Certifier or any related entity has provided to the Registry participant within the last three years any of the following:
 - designing energy efficiency, renewable, or other projects which explicitly identify GHG reductions as benefit
 - preparing or producing GHG-related manuals, handbooks, or procedures specifically for the Registry participant
 - appraisal services of carbon or GHG liabilities or assets

Article 5 (cont.)



2841 (cont.)

Potential for COI shall be deemed high where:

- Certifier or any related entity has provided to the Registry participant within the last three years any of the following:
 - brokering in, advising on, or assisting in any way in carbon or GHG markets
 - managing any health, environment, or safety functions
 - providing legal or expert services of any kind
- Certifier has provided certification services for six previous years, or had a lapse without abstaining for three consecutive years

Article 5 (cont.)



2841 (cont.)

Potential for COI shall be deemed low where:

- Registry participant's GHG inventory is less than 500 tons CO2 equivalent and the certifier has not performed certification for the participant in the previous year
- No high potential for a COI was found and the services provided by the certifier to the participant are valued at less than 20% of the certification fee, or outside the United States and less than 50% of the certification fee

Article 5 (cont.)



2841 (cont.)

Potential for COI shall be deemed medium where the potential is not deemed high or low

If a certifier identifies a medium potential for COI, the certifier may submit a plan to avoid, neutralize, or mitigate the potential for COI

The Commission shall consider the plan when determining whether the potential is acceptable or unacceptable

Article 5 (cont.)



2842

If a certifier has an unacceptable potential for COI with a Registry participant, the Commission will recommend to the Registry that the Registry not accept the certifiers certification

If Commission concurs with certifier that potential for COI is high, then the Commission will determine that potential for COI is unacceptable

If Commission concurs with certifier that potential for COI is low, then the Commission will determine that potential for COI is acceptable

Article 5 (cont.)



2842

If Commission concurs with certifier that potential for COI is medium, or the Commission does not concur with the certifier's evaluation, then the Commission will consider a number of factors including, nature of work, relationships, cost of certification, and mitigation plan if any to determine if the potential for COI is acceptable or unacceptable

The Commission may request additional information to complete a determination

Article 5 (cont.)



2843

The Commission will notify the certifier in writing when
COI information is deemed complete

The Commission will issue a determination within 10
working days of deeming the COI information
complete

Article 5 (cont.)



2844

No earlier than the date on which the Commission makes a COI determination that the potential for COI is acceptable, the certifier shall submit a notice of certification services

The notice of certification services shall contain:

- General information on the certifier and Registry participant
- Whether the reporting for California or nationwide
- Whether the reporting is for the baseline year

Article 5 (cont.)



2844 (cont.)

The notice of certification services shall contain:

- The number of facilities to be visited for certification
- The dates of visits and completion of certification
- A brief description of certification services to be performed
- A list of information the participant will provide to the certifier
- Staff who will undertake certification and their roles and responsibilities

Article 5 (cont.)



2844 (cont.)

The notice of certification services shall contain:

- A COI form
- A form signed by the Registry participant acknowledging the right of the Commission to conduct visits

The certifier may begin certification 10 working days after the notice is received by the Commission or earlier is so stated by the Commission

Article 5 (cont.)



2845

After the commencement of certification, the certifier shall monitor and immediately make full disclosure in writing to the Commission regarding any potential COI

The certifier shall monitor potential COI for one year after certification. The certifier will notify the Commission within 30 days of entering into any contract with the participant

The Commission may recommend to the Registry that the results of a certification in which a COI has arisen to be invalidated